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and Saki Dodelson*

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

AC HOLDCO, INC. and ACHIEVE3000, INC.,	:	Civil Action No. 3:20-cv-09211
	:	
Plaintiffs,	:	
	:	
-vs-	:	STATEMENT IN RESPOSE
	:	TO MOTION TO SEAL
	:	AND IN AGREEING TO MOTION
BEABLE EDUCATION, INC., SAKI	:	
DODELSON, and JOHN DOES 1-35	:	
	:	
Defendants.	:	

Defendants Beable Education, Inc. (“Beable”) and Saki Dodelson (“Ms. Dodelson”) (collectively, Defendants) do not object to Plaintiffs’ Motion to Seal Plaintiffs’ Complaint (ECF No. 7) – in fact, Plaintiffs use information that should be protected based upon a Stipulated Protective Order entered in another, now-terminated litigation in New Jersey State Court as well as the Confidentiality provisions of another agreement involving the parties and others (the “Confidential Agreement,” which Plaintiffs submitted to this Court as Complaint Exhibit G). As admitted in the Declaration of Kevin H. Marino (ECF No. 7-1), Plaintiffs’ Complaint relies on, references, summarizes, and directly quotes from this confidential agreement between and among parties to this action and other individuals and entities who are not parties to this action.

Prior to forming Beable, Ms. Dodelson was the co-founder and Chief Executive Officer of Achieve3000, Inc. for over two decades, growing and constructing the company into a monumental success. Ms. Dodelson took the company from a small, fledgling business operating out of a warehouse into a leading literacy platform serving nearly three million students worldwide and generating nearly \$10 million in revenue by 2006. Around 2009, Insight Venture Partners (“IVP”) invested in Achieve3000, and for a period of time Ms. Dodelson continued on as CEO. By the end of 2014, Achieve3000’s success grew to a remarkable \$67 million in sales.

In March of 2015, IVP led an acquisition of Achieve3000 and as part of this transaction, Ms. Dodelson entered into an Amended and Restated Employment Agreement, which is referenced in Plaintiffs’ Complaint. Ms. Dodelson remained an employee of Achieve3000 until her resignation on April 18, 2018. Thereafter, she sued in New Jersey State court.

The Amended and Restated Employment Agreement was at the core of allegations in *Dodelson v. AC Holdco Inc. d/b/a Achieve3000, et al.*, OCN-L-2139-18 (Law Div. Aug. 31, 2018) (the “New Jersey State Litigation”), specifically that Achieve3000 breached the agreement and intentionally deprived Ms. Dodelson of the benefits to which she was contractually and equitable entitled to under the Employment Agreement. Other causes of action included Violation of New Jersey’s Wage Payment Law, breach of contract, breach of covenant of good faith and fair dealing, and tortious interference. Defendants Achieve3000 et al. asserted counterclaims based on the Employment Contract, fraud, and unjust enrichment, amongst others, and raised substantial issues concerning Ms. Dodelson’s new business and its hiring of former Achieve3000 employees.

The court in the New Jersey State Litigation entered a Stipulated Protective Order that provided “All Discovery Materials, Confidential Information and Outside Counsel Eyes’ Only Protective Information shall be used only in connection with and for the purposes of the [New Jersey State Litigation] ... and for no other purposes whatsoever, including other litigation, whether or not such other litigation involves one or more parties in this action” (Complaint in this case Exhibit H, OCN L 2139-18 (4/2/2019) at page 7, para. 3(D)). The terms of the Confidential Agreement also require confidentiality (in order to not burden this Court with sealing this filing, Defendants simply refer to the terms thereof at Complaint Exhibit G, page 9, para. 17).

As will be demonstrated, AC Holdco and Achieve3000 have filed this case seeking largely to re-litigate claims that have already been or could have been litigated during the New Jersey State Litigation. Much of the information that will be presented in this case will be subject to the Stipulated Protective Order from the New Jersey State Litigation and the subsequent Confidential Agreement referenced above. Accordingly, Beable and Ms. Dodelson believe that this Court should not have been burdened with information governed by another court’s Protective Order and the Confidential Agreement, but since Plaintiffs have done so then Plaintiffs’ Motion to Seal the Complaint and associated exhibits should be granted.

Defendants submit that no brief is necessary because they do not oppose the motion and because the motion does not raise any contested issues of law.

Dated: August 12, 2020

Yeskoo Hogan & Tamlyn, LLP

By: s/
Richard C. Yeskoo

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* Motion for *pro hac vice* admission forthcoming

CERTIFICATE OF SERVICE

I hereby certify that on August 12, 2020 I caused Defendants' Statement in Response to Motion to Seal and this Certificate of Service to be served on counsel of record for Plaintiff using the ECF System.

s/Richard C. Yeskoo